

CHAPTER 5

OFFICE OF COUNSEL (G)

5000 LEAD COUNSEL

MISSION: The Office of Counsel provides legal advice and services to the Commander and staff elements on matters involving or affecting the Command, including DLA overseas activities. DRMS Counsel also provides legal services to the Commander, Defense Logistics Information Service (DLIS).

FUNCTIONS:

1. Performs legal research incidental to, and provides opinions and recommendations concerning, the development, analysis and implementation of the Command's plans, programs, systems and operations.
2. Advises and represents assigned clients on all matters of law, including international law. Assists the Department of Justice on matters of foreign and domestic litigation.
3. Assists clients in the interpretation and application of non-contractual agreements, including but not limited to interagency and intra-agency Memoranda of Agreement (MOA), interservice support agreements (ISAs), licensing agreements, Status of Forces Agreements (SOFAs); customs, basing and tariff agreements, and labor and personnel agreements; real estate permits, treaties; defense cooperation agreements; bilateral sales agreements; acquisition agreements; and diplomatic exchanges.
4. Advises Commanders, supervisors, and personnel (military, civilian, and local national) on the exercise of foreign criminal jurisdiction under applicable SOFAs.
5. Analyzes the legal impact of proposed and new legislation, regulations and policies. Initiates legislation where appropriate.
6. Advises the Commander and staff elements on legal aspects of the establishment and implementation of systems for information technology security, installation security and internal controls.
7. Assists in the formulation of acquisition policy and procedures, the preparation of solicitations and contracts, and their administration. Reviews solicitations and proposed contract awards and contract modifications for legal sufficiency. Advises on and reviews post contract award actions such as termination settlements, payments and novation agreements. Participates in the negotiation of contracts and in the determination and enforcement of contractual rights and obligations. Advises on the identification and resolution of potential and actual claims.
8. Advises as to legal sufficiency of contracting officer decisions under the "disputes" clause.
9. Reviews allegations of mistakes in bids on procurement and sales contracts and permits withdrawal or provides recommendation to correct, deny correction or deny

withdrawal in accordance with existing regulations. Reviews and, if warranted, concurs on proposed disposition of claims of mistake alleged after award. Acts on requests for extraordinary contractual relief in accordance with existing regulations.

10. Exercises supervisory and professional authority over subordinate personnel providing legal services to the Command.
11. Responsible for court litigation matters relating to the Command's activities and operations, including gathering evidence, obtaining witnesses, developing legal positions and arguments, preparing litigation reports and draft pleadings, motions, memoranda and other filings, and providing other support to the Department of Justice as requested. Such support may include acting in an "of counsel" or co-counsel capacity.
12. Assembles facts, prepares proofs of claim, prepares reports and represents the Command in matters relating to contractor insolvencies and bankruptcies.
13. Represents the Command's legal position on protests submitted to the contracting officer. Represents the Command on protests filed with the GAO against the award of contracts.
14. Represents the Command in all administrative litigation involving the Command's activities and operations. This includes proceedings before the Armed Services Board of Contract Appeals, an arbitrator appointed under the terms of a negotiated bargaining unit agreement, the Merit Systems Protection Board, the Federal Labor Relations Authority and the Equal Employment Opportunity Commission, various state and local authorities and the EPA.
15. Assembles facts and prepares reports and recommendations to higher authority, as requested, on cases referred by the Special Counsel, Merit Systems Protection Board, pursuant to the Civil Service Reform Act, Public Law 95-454, as amended.
16. Serves as Deputy Agency Ethics Official and ethics counselor under the OGC/DoD/DLA Standards of Conduct Program. Reviews Executive Branch Confidential Financial Disclosure Reports (Standard Form 450) submitted by Command employees. Provides standards of conduct briefings to Command employees.
17. Pursuant to the Business Integrity Program, examines matters involving potential contract fraud, violations of antitrust laws or other improper conduct by offerors or contractors, and violations of conflict of interest laws and regulations. Refers matters that merit investigation to the appropriate investigative agency. Monitors progress of investigation, provides legal support as required, and initiates further action in the matter as warranted, including reports and recommendations to higher authority for debarment or suspension, referral through the Office of General Counsel, HQ DLA, to the Justice Department for possible civil recovery litigation.
18. Provides, or arranges for provision by the Military Departments, legal assistance to active duty military personnel assigned to the Commander.
19. Serves as legal member of duly constituted boards, panels or committees.

20. When designated by the Department of Justice as a Special Assistant United States Attorney, acts as prosecutor in criminal cases before the U.S. Magistrate or in other Federal Court in cases involving the Command.
21. Acts as suspension/debarment authority for all sales actions.
22. Assists in the formulation of environmental policy and procedures and the preparation of environmental documents for compliance and consistency with all environmental laws and regulations. Advises on and reviews, for legal sufficiency, written communications with environmental regulators, permit applications and other responses to regulators. Represents the agency before administrative tribunals and boards convened as a result of the agency's legal position on environmental compliance. Represents the agency in negotiations involving environmental response actions on privately owned cleanup sites and on DoD installations. Reviews and recommends action on offers of settlement relating to environmental claims. Initiates appropriate affirmative cost recovery.
23. Serves as the focal point for the Alternative Dispute Resolution (ADR) Program for DRMS and DLIS. Conducts ADR training and promotes the use of ADR to resolve disputes.
24. Advises DLA Europe, DLA Pacific, and DRMS overseas units on aspects of military operations law and the law of war.
25. Advises the DRMS Commander and members of DLA Contingency Support Teams on legal matters associated with supporting the warfighter.
26. Advises the DRMS Commander and staff elements on issues involving the privatization of government services, on the release of information, including releases under the Freedom of Information Act, the Privacy Act, and on the release of confidential business information, and on issues arising under the Base Realignment and Closure Act.